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REMARKS

Claims 1-5 are pending in this application, each of which was rejected. Claims 1 and 3-5 are currently amended. Support for the claim amendments can be found, *inter alia*, in the specification at page 52, first paragraph. Reconsideration is respectfully requested.

Claims 4 and 5 were subject to objection. Claim 4 was subject to objection because of indefiniteness regarding the terms "x" and "y." The Office suggests that the terms most likely refer to real numbers but suggests that the claim be amended to limit those terms to integers. Applicant believes that the "integer" limitation would be unnecessarily limiting, but has amended claim 4 to recite that "x" and "y" are real numbers. Claim 5 has been amended in accordance with the suggestion by the Office. Withdrawal of the objections is requested.

Claims 1-5 were rejected under 35 U.S.C. §103(a) over English in view of Slovin. Claim 1 has been amended to recite that the wireless device ascertains whether to attempt to associate with an alternative access point operating on a second channel by "calculating an indication of available data rate based at least in-part on signal strengths of transmissions from the current and alternative access points, and at least in-part on technology supported by the current and alternative access points." Applicant is unable to find any such teaching in the cited references. Withdrawal of the rejection of claim 1 is therefore requested.

Claims 2-5 are dependent claims which further distinguish the invention, and which are allowable for the same reasons as claim 1. Further, claims 3-5 have been amended to emphasize the distinction of claim 1. Withdrawal of the rejections of claims 2-5 based on the combination of English and Slovin is therefore requested.

Applicant respectfully requests that the finality of the rejection be withdrawn and that this amendment be entered. The limitations emphasized in this amendment and added to claim 1 were

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already presented in claim 4 as filed. In particular, claim 4 recites a "biased distance" which is defined in the specification at page 52, first paragraph, as taking into account the available data rate as well as the loads on the APs, where "the data rate is deduced based on the received signal strength and the technology being used (i.e., in an 802.11 environment, the 802.11 mode of operation (a, b, g))." While the claims are not limited to either 802.11 technology or those particular modes, it is suggested that the Office did not fully consider the meaning of "biased distance" as originally recited in claim 4, which includes the available data rate calculation now recited in claim 1. Consequently, the claim amendments do not present new limitations.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 978-264-4001 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

March 20, 2006
Date


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Docket No. 160-030
Dd: 3/19/2006